IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7711 of 2005

Between:

Myakala Ramulu S/o. Balaiah,
Siricilla Town & Mandal, Karimnagar District.

..... PETITIONER

AND

The Municipal Council, Siricilla Municipality,
Karimnagar District, Rep. by its Commissioner.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of writ of CERTIORARI call for the records relating to the provisional order issued U/sec. 228(1) of A.P. Municipalities Act 1965 vide U.C.C.R. No. 2/2005, dt.
28-3-2005 and also the consequential notice issued under Sec. 228(2) of A.P. municipalities Act 1965 vide U.C.R.No. 2/2005 dt. 28-3-2005 by the respondent herein and QUASH the same by duly declaring the provisional order as well as the consequential notice issued by the respondent herein as being illegal, arbitrary and contrary to the provisions of A.P. Municipalities Act, 1965 and further being unconstitutional and violative of Art. 14 of the Constitution of India.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

Counsel for the Respondent: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court, at the stage of admission, made the following :

ORDER :

This writ petition is filed questioning the order dated 28.03.2005 passed by the respondent-Commissioner, Siricilla Municipality, Karimnagar District under Section 228 (1) of the A.P. Municipalities Act, (for short "the Act"), thereby directing the petitioner to stop construction of house at Ganesgh Nagar Street, Siricilla and to remove the constructions already made therein within a period of three days from the date of receipt of the said order alleging that the petitioner is proceeding with construction without obtaining any permission.

The only contention raised by the petitioner is that before passing the order under Section 228(1) of the Act, there was no prior notice to the petitioner to rebut the alleged unauthroised constructions.

The learned Standing Counsel appearing for the respondent Municipality states that since a show-cause notice was also served on the petitioner on the same day, it is open to the petitioner to submit the necessary explanation, in which event the same will be considered and a fresh order will be passed under Section 228(1) of the Act.

Accordingly, the impugned order dated 28-3-2005 is set aside and the Writ Petition is disposed of granting liberty to the petitioner to submit his explanation to the show-cause notice dated 28-03-2005 issued under Section 228(2) of A.P. Municipalities Act, 1965 along with all the material to support his plea, within a period of two weeks from today. If any such explanation is submitted by the petitioner within the time specified above, the respondent shall consider the same and pass appropriate orders in accordance with law and communicate the same to the petitioner. Till such time, no coercive steps shall be taken against the petitioner.

The Writ Petition is accordingly disposed of. No costs.

7th April, 2005.

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To

1 The Municipal Council, Siricilla Municipality,
Karimnagar District, Rep. by its Commissioner.

2 2 CD copies

3 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)